

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION**

MARCUS DUANE BROWN, #25843077,	§	
Petitioner,	§	
	§	
v.	§	3:16-CV-1177-D
	§	(3:94-CR-091-D-02)
UNITED STATES OF AMERICA,	§	
Respondent.	§	

ORDER

After making an independent review of the pleadings, files, and records in this case, and the findings, conclusions, and recommendation of the magistrate judge, the court concludes that the findings and conclusions are correct.* It is therefore ordered that the findings, conclusions, and recommendation of the magistrate judge are adopted.

Petitioner's July 19, 2016 motion to issue stay in abeyance is denied.

It is therefore ordered that the motion to vacate, set aside or correct sentence under 28 U.S.C. § 2255 is dismissed with prejudice as barred by the one-year statute of limitations.

Considering the record in this case and pursuant to Fed. R. App. P. 22(b), Rule 11(a) of the Rules Governing §§ 2254 and 2255 proceedings, and 28 U.S.C. § 2253(c), the court denies a certificate of appealability. The court adopts and incorporates by reference the magistrate judge's findings, conclusions, and recommendation filed in this case in support of its finding that the petitioner has failed to show (1) that reasonable jurists would find this court's "assessment of the constitutional claims debatable or wrong," or (2) that reasonable jurists would find "it debatable

*The findings, conclusions, and recommendation of the magistrate judge contain typographical errors that the court does not adopt and that can be disregarded because the magistrate judge's intent to cite the correct statutory provisions is reasonably inferred. The reference to "28 U.S.C. § 924(e)" should be to "18 U.S.C. § 924(e)," and the reference to "28 U.S.C. § 924(c)(1)(A)(i)" should be to "18 U.S.C. § 924(c)(1)(A)(i)."

whether the petition states a valid claim of the denial of a constitutional right” and “debatable whether [this court] was correct in its procedural ruling.” *Slack v. McDaniel*, 529 U.S.473, 484 (2000).

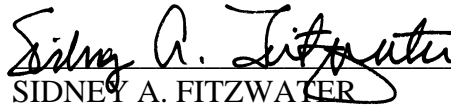
If petitioner files a notice of appeal,

() petitioner may proceed *in forma pauperis* on appeal.

(X) petitioner must pay the \$505.00 appellate filing fee or submit a motion to proceed *in forma pauperis*.

SO ORDERED.

July 21, 2016.


SIDNEY A. FITZWATER
UNITED STATES DISTRICT JUDGE